

General Assembly

Raised Bill No. 6416

January Session, 2021

LCO No. 3159



Referred to Committee on HUMAN SERVICES

Introduced by: (HS)

AN ACT CONCERNING THE REMOVAL OF LIENS ON THE PROPERTY OF PUBLIC ASSISTANCE BENEFICIARIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. Section 4a-13 of the general statutes is repealed and the
- 2 following is substituted in lieu thereof (*Effective July 1, 2021*):
- 3 (a) As used in this section and section 4a-16, as amended by this act,
- 4 <u>"cash assistance" means payments made to a beneficiary of the aid to</u>
- 5 <u>families</u> with dependent children program, the state-administered
- 6 general assistance program, the state supplement program or the
- 7 <u>temporary family assistance program.</u>
- 8 (b) The Commissioner of Administrative Services may accept
- 9 mortgage notes and mortgage deeds in payment of claims due for
- 10 [welfare assistance or] (1) institutional care [,] in state humane
- 11 <u>institutions</u>, as defined in section 17b-222, or correctional institutions
- 12 <u>administered by the Commissioner of Correction, and (2) cash</u>
- 13 <u>assistance and medical assistance, provided that no such claims shall be</u>
- 14 <u>due and payable from mortgage notes and mortgage deeds valued at</u>
- 15 <u>two hundred fifty thousand dollars or less unless required under federal</u>
- 16 <u>law or the provisions of section 18-85c. The commissioner may accept</u>

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such mortgage notes and mortgage deeds on such terms and conditions as the commissioner deems proper and reasonable, and such encumbrances may be foreclosed in an action brought in a court of competent jurisdiction by the commissioner on behalf of the state. Any such encumbrance shall be released by the commissioner upon payment of the amount by it secured.

Sec. 2. Section 4a-16 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

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When any person supported or cared for by the state (1) under a program of [public] cash assistance or medical assistance, [or] (2) in an institution maintained by the Department of Developmental Services or Department of Mental Health and Addiction Services, [or] (3) when an inmate of the Department of Correction, or [when any] (4) as a child committed to the Commissioner of Social Services or Commissioner of Children and Families dies, leaving only personal estate, including personal assets owing and due the estate after death, not exceeding the aggregate value, as described in section 45a-273, as amended by this act, the Commissioner of Administrative Services or the commissioner's authorized representative shall [, upon filing] file with the [probate court Probate Court having jurisdiction of such estate a certificate that the total estate is under the aggregate value, as described in section 45a-273, as amended by this act, and the claim of the state for the cost of any care or support, required to be recovered under federal law or the provisions of 18-85c, together with the expense of last illness not exceeding three hundred seventy-five dollars and funeral and burial expenses in accordance with [section] sections 17b-84 and 17b-131, equals or exceeds the amount of such estate. [,] The commissioner shall be issued a certificate by said court that the commissioner is the legal representative of such estate only for the following purpose. The commissioner shall have authority to claim such estate, the commissioner's receipt for the same to be a valid discharge of the liability of any person turning over the same, and to settle the same by payment of the expense of last illness not exceeding three hundred seventy-five dollars, expense of funeral and burial in accordance with

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- 51 [section] sections 17b-84 and 17b-131 and the remainder as partial or full 52 reimbursement of the claim of the state <u>only for amounts due under the</u> 53 provisions of section 18-85c or federal law for (A) care [or assistance] 54 rendered to the decedent as described in subdivisions (2) to (4), 55 inclusive, of this section, or (B) cash assistance or medical assistance the 56 state is required to recover under federal law. The commissioner shall 57 file with said probate court a statement of the settlement of such estate 58 as herein provided.
- Sec. 3. Subsection (b) of section 17b-77 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):
- 62 (b) The Commissioner of Social Services shall notify each applicant 63 for aid under the state supplement program, medical assistance 64 program, temporary family assistance program and state-administered 65 general assistance program of the provisions of sections 17b-93 to 17b-66 97, inclusive, in general terms, at the time of application for such aid. 67 The commissioner shall notify each person who may be liable for 68 repayment of such aid, if known, of the provisions of sections 17b-93 to 69 17b-97, inclusive, as amended by this act, in general terms, not later than 70 thirty days after the applicant for such aid is determined to be eligible 71 for such aid or, if not known at the time the applicant is determined to 72 be eligible for such aid, [the department shall give such notice] not later 73 than thirty days after the date on which the commissioner identifies 74 such person as one who may be liable for repayment of such aid. The 75 notice shall be (1) written in plain language, (2) in an easily readable and 76 understandable format, and (3) whenever possible, in the first language 77 of the applicant or person who may be liable for repayment of such aid.
- Sec. 4. Section 17b-79 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):

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(a) As used in this section, "cash assistance" means payments made to a beneficiary of the state supplement program, temporary family assistance program or the state-administered general assistance

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program. No person shall be deemed ineligible to receive an award under the state supplement program, medical assistance program, temporary family assistance program, state-administered general assistance program or supplemental nutrition assistance program for himself or herself or for any person for whose support he or she is liable by reason of having an interest in real property, maintained as his or her home, provided the equity in such property [shall] does not exceed the limits established by the commissioner. The commissioner may place a lien against any property to secure the claim of the state for all amounts which it has paid or may thereafter pay to such person or in such person's behalf [under any such program, or] (1) for cash assistance or medical assistance, (2) to or on behalf of any person for whose support he or she is liable, [except for] or (3) for any medical assistance, provided that, for property valued at two hundred fifty thousand dollars or less, the commissioner may only recover amounts due for cash assistance or medical assistance required to be recovered under federal law. Such recovery shall not include property maintained as a home in aid to families of dependent children cases, in which case such lien shall secure the state only for that portion of the assistance grant awarded for amortization of a mortgage or other encumbrance beginning with the fifth month after the original grant for principal payment on any such encumbrance is made, and each succeeding month of such grant thereafter. The claim of the state shall be secured by filing a certificate in the land records of the town or towns in which any such real estate is situated, describing such real estate. Any such lien may, at any time during which the amount secured by such lien remains unpaid, be foreclosed in an action brought in a court of competent jurisdiction by the commissioner on behalf of the state. Any real estate to which title has been taken by foreclosure under this section, or which has been conveyed to the state in lieu of foreclosure, may be sold, transferred or conveyed for the state by the commissioner with the approval of the Attorney General, and the commissioner may, in the name of the state, execute deeds for such purpose. Such lien shall be released by the commissioner upon payment of the amount secured by such lien, or an amount equal to the value of the beneficiary's interest in such property

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- if the value of such interest is less than the amount secured by such lien,
- at the commissioner's discretion, and with the advice and consent of the
- 120 Attorney General, upon a compromise of the amount due to the state.
- 121 At the discretion of the commissioner, the beneficiary, or, in the case of
- a husband and wife living together, the survivor of them, as long as he
- or she lives, or a dependent child or children, may be permitted to
- 124 occupy such real property.
- (b) On and after July 1, 2021, the state shall not recover cash assistance
- or medical assistance from a lien filed on any property valued at two
- 127 hundred fifty thousand dollars or less, unless the state is required to
- 128 recover such assistance under federal law. Any certificate or lien filed
- 129 under this section by or on behalf of the state on such property prior to
- 130 July 1, 2021, shall be released by the state if the recovery of such
- assistance is not required under federal law.
- Sec. 5. Section 17b-85 of the general statutes is repealed and the
- following is substituted in lieu thereof (*Effective July 1, 2021*):
- If any person receiving an award for the care of any dependent child or children, or any person legally liable for the support of such child or
- children, or any other person being supported wholly or in part under
- the provisions of the state supplement program, medical assistance
- program, temporary family assistance program or state-administered
- 139 general assistance program or any beneficiary under such provisions or
- any legally liable relative of such beneficiary, receives property, wages,
- income or resources of any kind, such person or beneficiary, within ten
- 142 days after obtaining knowledge of or receiving such property, wages,
- income or resources, shall notify the commissioner thereof, orally or in
- writing, unless good cause is established for failure to provide such
- 145 notice, as determined by the commissioner. No such person or
- beneficiary shall sell, assign, transfer, encumber or otherwise dispose of
- any property without the consent of the commissioner unless such
- property is valued at two hundred fifty thousand dollars or less and
- such person has not received care or support payments the state is
- 150 <u>required to recover under federal law</u>. The provisions of section 17b-137

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shall be applicable with respect to any person applying for or receiving 152 an award under such provisions. Except for the supplemental nutrition assistance program, any change in the information which has been 154 furnished on an application form or a redetermination of eligibility form shall also be reported to the commissioner, orally or in writing, within 156 ten days of the occurrence of such change, unless good cause is 157 established for failure to provide such notice, as determined by the commissioner. For participants in the supplemental nutrition assistance 159 program, the commissioner shall establish reporting requirements 160 regarding such changes in information in accordance with applicable federal law, as may be amended from time to time.

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- 162 Sec. 6. Section 17b-93 of the general statutes is repealed and the 163 following is substituted in lieu thereof (*Effective July 1, 2021*):
 - (a) If a beneficiary of aid under the state supplement program, medical assistance program, aid to families with dependent children program, temporary family assistance program or state-administered general assistance program has or acquires property of any kind or interest in any property, estate or claim of any kind, except moneys received for the replacement of real or personal property, the state of Connecticut shall have a claim, subject to subsections (b) and (c) of this section and the provisions of section 17b-94, as amended by this act, which shall have priority over all other unsecured claims and unrecorded encumbrances, against such beneficiary for the full amount paid, [subject to the provisions of section 17b-94, to the beneficiary or on the beneficiary's behalf under said programs; provided that the state's claim on such property, property interest, estate or claim of any kind valued at two hundred fifty thousand dollars or less shall not exceed the amount the state is required to recover under federal law, and, in addition thereto, the parents of an aid to dependent children beneficiary, a state-administered general assistance beneficiary or a temporary family assistance beneficiary shall be liable to repay, subject to the provisions of section 17b-94, to the state the full amount of any such aid paid to or on behalf of either parent, his or her spouse, and his or her dependent child or children, as defined in section 17b-75, to the

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- (b) Any person who received cash benefits under the aid to families with dependent children program, the temporary family assistance program or the state-administered general assistance program, when such person was under eighteen years of age, shall not be liable to repay the state for such assistance.
- (c) No claim, except a claim required to be made under federal law, shall be made, or lien applied, against any payment made pursuant to chapter 135, any payment made pursuant to section 47-88d or 47-287, any moneys received as a settlement or award in a housing or employment or public accommodation discrimination case, any court-ordered retroactive rent abatement, including any made pursuant to subsection (e) of section 47a-14h or section 47a-4a, 47a-5 or 47a-57, or any security deposit refund pursuant to subsection (d) of section 47a-21 paid to a beneficiary of assistance under the state supplement program, medical assistance program, aid to families with dependent children program, temporary family assistance program or state-administered general assistance program or paid to any person who has been supported wholly, or in part, by the state, in accordance with section 17b-223, in a humane institution.

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(d) Notwithstanding any provision of the general statutes, whenever funds are collected pursuant to this section or section 17b-94, as amended by this act, and the person who otherwise would have been entitled to such funds is subject to a court-ordered current or arrearage child support payment obligation in a IV-D support case, such funds shall first be paid to the state for reimbursement of Medicaid funds granted to such person for medical expenses incurred for injuries related to a legal claim by such person which was the subject of the state's lien and such funds shall then be paid to the Office of Child Support Services for distribution pursuant to the federally mandated child support distribution system implemented pursuant to subsection (j) of section 17b-179. The remainder, if any, shall be paid to the state for payment of previously provided assistance [through the state supplement program, medical assistance program, aid to families with dependent children program, temporary family assistance program or state-administered general assistance program] that the state is required to recover under federal law or, if such recovery is not required under federal law, from property, a property interest, estate or claim of any kind that exceeds the value of two hundred fifty thousand dollars.

(e) The Commissioner of Social Services shall adopt regulations, in accordance with chapter 54, establishing criteria and procedures for adjustment of the claim of the state of Connecticut <u>against any parent liable for child support payments</u> under subsection (a) of this section. The purpose of any such adjustment shall be to encourage the positive involvement of noncustodial parents in the lives of their children and to encourage noncustodial parents to begin making regular support payments.

(f) On and after July 1, 2021, the state shall not recover cash assistance or medical assistance from a lien filed on any property, property interest, estate or claim of any kind valued at two hundred fifty thousand dollars or less, unless the state is required to recover such assistance under federal law. Any certificate or lien filed under this section by or on behalf of the state on such property, property interest, estate or claim of any kind prior to July 1, 2021, shall be released by the

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- 252 <u>state if the recovery of such assistance is not required under federal law.</u>
- 253 As used in this subsection, cash assistance means payments made to a
- beneficiary of the aid to families with dependent children program, the
- 255 <u>state-administered general assistance program, the state supplement</u>
- 256 program or the temporary family assistance program.

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- Sec. 7. Section 17b-94 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):
 - (a) In the case of causes of action of beneficiaries of aid under the state supplement program, medical assistance program, aid to families with dependent children program, temporary family assistance program or state-administered general assistance program, subject to subsections (b) and (c) of section 17b-93, as amended by this act, or of a parent liable to repay the state under the provisions of section 17b-93, as amended by this act, the claim of the state shall be a lien against the proceeds therefrom in the amount of the assistance paid or fifty per cent of the proceeds received by such beneficiary or such parent after payment of all expenses connected with the cause of action, whichever is less, for repayment under section 17b-93, [and shall have priority] provided the proceeds from the cause of action exceeds two hundred fifty thousand dollars or the state is required to recover all, or a portion of the proceeds, under federal law for the assistance paid. The state's claim shall have priority over all other claims except attorney's fees for said causes, expenses of suit, costs of hospitalization connected with the cause of action by whomever paid over and above hospital insurance or other such benefits, and, for such period of hospitalization as was not paid for by the state, physicians' fees for services during any such period as are connected with the cause of action over and above medical insurance or other such benefits; and such claim shall consist of the total assistance repayment for which claim may be made under said programs under the provisions of this section. The proceeds of such causes of action shall be assignable to the state for payment of the amount due under section 17b-93, as amended by this act, subject to the provisions of this subsection, irrespective of any other provision of law. Upon presentation to the attorney for the beneficiary of an assignment of such

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proceeds executed by the beneficiary or his conservator or guardian, such assignment shall constitute an irrevocable direction to the attorney to pay the Commissioner of Administrative Services in accordance with its terms, except if, after settlement of the cause of action or judgment thereon, the Commissioner of Administrative Services does not inform the attorney for the beneficiary of the amount of lien which is to be paid to the Commissioner of Administrative Services within forty-five days of receipt of the written request of such attorney for such information, such attorney may distribute such proceeds to such beneficiary and shall not be liable for any loss the state may sustain thereby.

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(b) In the case of an inheritance of an estate by a beneficiary of aid under the state supplement program, medical assistance program, aid to families with dependent children program, temporary family assistance program or state-administered general assistance program, subject to subsections (b) and (c) of section 17b-93, as amended by this act, or by a parent liable to repay the state under the provisions of section 17b-93, as amended by this act, fifty per cent of the assets of the estate payable to the beneficiary or such parent or the amount of such assets equal to the amount of assistance paid, provided the value of the estate exceeds two hundred fifty thousand dollars, or is otherwise required to be recovered by the state under federal law, whichever is less, shall be assignable to the state for payment of the amount due under section 17b-93, as amended by this act. The state shall have a lien against such assets in the applicable amount specified in this subsection. The [Court of Probate] Probate Court shall accept any such assignment executed by the beneficiary or parent or any such lien notice if such assignment or lien notice is filed by the Commissioner of Administrative Services with the court prior to the distribution of such inheritance, and to the extent of such inheritance not already distributed, the court shall order distribution in accordance with such assignment or lien notice. If the Commissioner of Administrative Services receives any assets of an estate pursuant to any such assignment, the commissioner shall be subject to the same duties and liabilities concerning such assigned assets as the beneficiary or parent.

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(c) On and after July 1, 2021, the state shall not recover cash assistance or medical assistance from a lien filed on any property, property interest, proceeds from a cause of action or estate valued at two hundred fifty thousand dollars or less, unless the state is required to recover such assistance under federal law. Any certificate or lien filed under this section by or on behalf of the state on such property, property interest, proceeds from a cause of action or estate prior to July 1, 2021, shall be released by the state if the recovery of such assistance is not required under federal law. As used in this subsection, cash assistance means payments made to a beneficiary of the aid to families with dependent children program, the state-administered general assistance program, the state supplement program or the temporary family assistance program.

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- Sec. 8. Section 17b-95 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):
 - (a) As used in this section, "cash assistance" means payments made to a ben<u>eficiary under the state supplement program, aid to families</u> with dependent children program, temporary family assistance program or state-administered general assistance program. Subject to the provisions of subsection (b) of this section, upon the death of a parent of a child who has, at any time, been a beneficiary under the program of aid to families with dependent children, the temporary family assistance program or the state-administered general assistance program, or upon the death of any person who has at any time been a beneficiary of aid under the state supplement program, medical assistance program, aid to families with dependent children program, temporary family assistance program or state-administered general assistance program, except as provided in subsection (b) of section 17b-93, as amended by this act, the state shall have a claim against such parent's or [person's] beneficiary's estate for all [amounts paid on behalf of each such child or for the support of either parent or such child or such person under the state supplement program, medical assistance program, aid to families with dependent children program, temporary family assistance program or state-administered general assistance

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354 program] cash assistance or medical assistance for which the state has 355 not been reimbursed, to the extent that (1) the amount which the 356 surviving spouse, parent or dependent children of the decedent would 357 otherwise take from such estate is not needed for their support, (2) the 358 value of the estate exceeds two hundred fifty thousand dollars, or (3) the 359 state is required to recover such assistance under federal law. 360 Notwithstanding the provisions of this subsection, effective for services provided on or after January 1, 2014, no state claim pursuant to this 362 section shall be made against the estate of a recipient of medical 363 assistance under the Medicaid Coverage for the Lowest Income 364 **Populations** established Section program, pursuant to 365 1902(a)(10)(A)(i)(VIII) of the Social Security Act, as amended from time 366 to time, except to the extent required by federal law.

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- (b) In the case of any person dying after October 1, 1959, the claim for medical payments, even though such payments were made prior thereto, shall be restricted to medical disbursements actually made for care of such deceased beneficiary.
- (c) Claims pursuant to this section shall have priority over all unsecured claims against such estate, except (1) expenses of last sickness not to exceed three hundred seventy-five dollars, (2) funeral and burial expenses in accordance with [section] sections 17b-84 and 17b-131, and (3) administrative expenses, including [probate fees and taxes, and] (A) taxes, and (B) probate fees, including fiduciary fees not exceeding the following commissions on the value of the whole estates accounted for by such fiduciaries: On the first two thousand dollars or portion thereof, five per cent; on the next eight thousand dollars or portion thereof, four per cent; on the excess over ten thousand dollars, three per cent. Upon petition by any fiduciary, the Probate Court, after a hearing thereon, may authorize compensation in excess of the above schedule for extraordinary services. Notice of any such petition and hearing shall be given to the Commissioner of Administrative Services in Hartford at least ten days in advance of such hearing. The allowable funeral and burial payment [herein] as provided in this section shall be reduced by the amount of any prepaid funeral arrangement. Any amount paid from

LCO No. 3159 **12** of 14 the estate under this section to any person which exceeds the limits provided [herein] in this section shall be repaid to the estate by such person, and such amount may be recovered in a civil action with interest at six per cent from the date of demand.

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- (d) For purposes of this section, all sums due on or after July 1, 2003, to any individual after the death of a [public] cash assistance or medical assistance beneficiary from whom the state is required to recover such assistance under federal law, pursuant to the terms of an annuity contract purchased at any time with assets of [a public assistance] such beneficiary, shall be deemed to be part of the estate of the deceased beneficiary and shall be payable to the state by the recipient of such annuity payments to the extent [necessary to achieve full reimbursement of any public assistance benefits paid to, or on behalf of, the deceased beneficiary] such estate exceeds the value of two hundred fifty thousand dollars or such assistance is required to be recovered under federal law, irrespective of any provision of law. The recipient of beneficiary payments from any such annuity contract shall be solely liable to the state of Connecticut for reimbursement of [public assistance] cash assistance and medical assistance benefits paid to, or on behalf of, the deceased beneficiary that the state is required to recover under federal law, to the extent of any payments received by such recipient pursuant to the annuity contract.
- (e) On and after July 1, 2021, the state shall not recover cash assistance or medical assistance from a lien filed on any property or estate valued at two hundred fifty thousand dollars or less, unless the state is required to recover such assistance under federal law. Any certificate or lien filed under this section by or on behalf of the state on such property or estate prior to July 1, 2021, shall be released by the state if the recovery of such assistance is not required under federal law.
- Sec. 9. Section 17b-224 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2021*):
- A patient who is receiving or has received care in a state humane

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420 institution, his estate or both shall be liable to reimburse the state for any 421 unpaid portion of per capita cost, [to the same extent as the liability of a 422 public assistance beneficiary under sections 17b-93 and 17b-95,] subject 423 to the same protection of a surviving spouse or dependent child as is provided in section 17b-95, as amended by this act, [and subject to the 424 425 same limitations and the same assignment and lien rights as provided 426 in section 17b-94] provided the unpaid portion is required to be recovered under federal law or the value of the patient's assets or estate 427 428 exceeds two hundred fifty thousand dollars.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2021	4a-13
Sec. 2	July 1, 2021	4a-16
Sec. 3	July 1, 2021	17b-77(b)
Sec. 4	July 1, 2021	17b-79
Sec. 5	July 1, 2021	17b-85
Sec. 6	July 1, 2021	17b-93
Sec. 7	July 1, 2021	17b-94
Sec. 8	July 1, 2021	17b-95
Sec. 9	July 1, 2021	17b-224

Statement of Purpose:

To eliminate state recovery of public assistance payments from assets and estates valued at two hundred fifty thousand dollars or less except as required under federal law.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

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